

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

YOLANDA LEE,

Plaintiff,

v.

Case No. 08-14284

COMMISSIONER OF SOCIAL SECURITY,

District Judge Arthur J. Tarnow

Defendant.

Magistrate Judge Donald A. Scheer

**ORDER ADOPTING REPORT AND RECOMMENDATION [13];
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [12];
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [9]**

Before the court are plaintiff's objections to the report and recommendation.

The court ADOPTS the report and recommendation. Any error by the ALJ in using the 1999 determination as the baseline for comparison with plaintiff's situation in 2004 was harmless for the reasons stated by M.J. Scheer. Furthermore, the subsequent award of benefits in July 2006 is not new evidence that supports a remand. *Allen v. Comm'r of Soc. Sec.*, 561 F.3d 646, 652–53 (6th Cir. 2009).

Defendant's motion is GRANTED, and Plaintiff's motion is DENIED.

SO ORDERED.

S/ARTHUR J. TARNOW

Arthur J. Tarnow
United States District Judge

Dated: July 23, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 23, 2009, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR

Case Manager